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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,748	07/31/2003	Takeshi Tsubouchi	033528-006	9932

21839 7590 06/16/2004

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

027

Office Action Summary	Application No.		Applicant(s)	
	10/630,748		TSUBOUCHI, TAKESHI	
	Examiner		Art Unit	
	Michael G. Mendoza		3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12-23-2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because undue length. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. In claim 10, the Applicant is required to clarify to what the claim is intended to be drawn to, i.e., either the conduit assembly alone or the combination of the conduit assembly and mechanical circulatory device. The Applicant sets forth the combination of the conduit assembly and the mechanical circulatory device when describing the

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ventricular assist device, which is inconsistent with preamble, that sets forth the subcombination of the conduit assembly. Applicant is required to make the language of the claims consistent with the intent of the claims. It should also be noted that in considering the claims on the merits, the Examiner will consider the claims as drawn to the combination.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Mussivand et al. 6290639.

8. Mussivand et al. teaches a conduit assembly for attachment to a mechanical circulatory device, the conduit assembly comprising: a conduit including a first curved 270 conduit and a second curved conduit 200; a first coupling for attaching a first end of the first curved conduit to the mechanical circulatory device (see fig.), the coupling being movable between a rotatable position and a fixed position (see abstract, lines 11-14); a second coupling for attaching a second end of the first curved conduit to a first end of the second curved conduit (see fig.), the coupling being movable between a rotatable position and a fixed position (see abstract, lines 11-14), wherein the conduit is rigid (col. 7, lines 56-65); wherein the conduit is circular in cross-section; wherein the conduit is formed from titanium (col. 7, lines 56-65); wherein the first coupling comprises

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a first rotatable nut 280 movable between a rotatable position and a fixed position; wherein the first rotatable nut engages a correspondingly threaded inflow port on the mechanical circulatory device (col. 8, lines 26-41); wherein the second coupling comprises a second rotatable nut 260 being movable between a rotatable position and a fixed position; wherein the second rotatable nut engages the second end of the first curved conduit, the second end of the first curved conduit being correspondingly threaded (col. 8, lines 17-18 and lines 26-41); and wherein the circulatory device is a ventricular assist device 2; wherein the ventricular assist device is a left ventricular assist device (see fig.).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

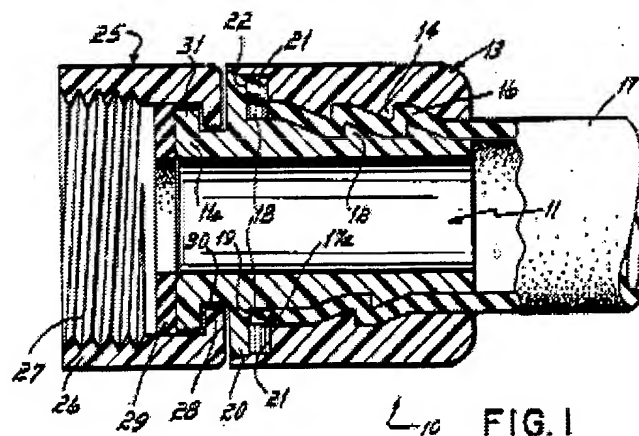
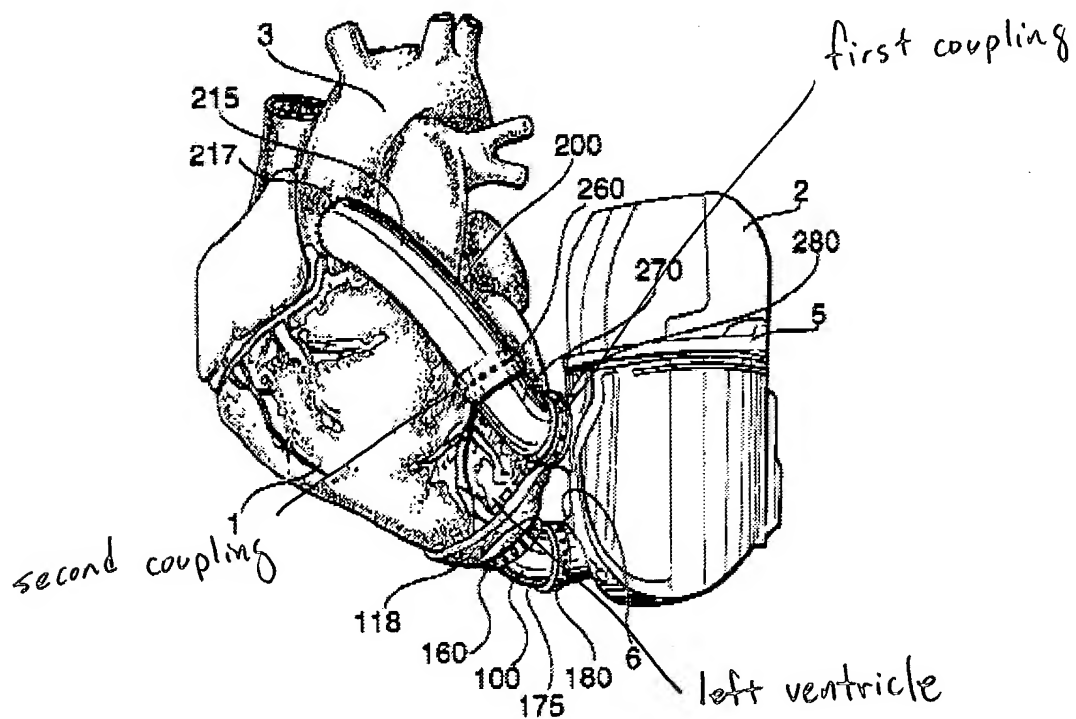
10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mussivand et al. in view of Goldenberg 5498043.

11. Mussivand et al. teaches the conduit assembly according to claim 8. It should be noted that Mussivand et al. fails to specifically teach wherein the second rotatable nut includes a lip, and wherein the first end of the second conduit includes a flange.

12. Goldenberg teaches a conduit assembly with a common rotatable nut 26 with a lip 28 and a flange 31 for rotatably retaining the nut on the conduit. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was

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made to use the lip and the flange of Goldenberg for allowing rotation of the nut while retaining the nut on the conduit. Furthermore, it is well know in the art of conduit connectors to use a nut with lip and a flange to hold the nut in place when connecting conduits, hoses, tubes, etc.



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Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (703) 305-3285. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dawson can be reached on (703) 308-4304. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

mm

MM
June 10, 2004

gd
GLENN K. DAWSON
PRIMARY EXAMINER